

CITY0429.DS2

Chairperson Drake called the regular Board of Adjustment meeting of November 28, 2012, to order at 5:30 p.m. in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Christiansen, Drake, Taylor.....Present  
Stewart.....Absent

**Item 1a – Approval of Minutes of November 14, 2012**

Chairperson Drake asked for any questions, comments or modifications to the November 14, 2012, meeting minutes.

Moved by Board member Taylor, seconded by Board member Blaser, the minutes for the Board of Adjustment meeting of November 14, 2012, were approved as presented.

Vote: Taylor, Blaser, Christiansen, Drake.....Yes  
Stewart.....Absent  
Motion carried.

**Item 2 – Old Business**

There were no Old Business items presented.

**Item 3 – Public Hearings****Item 3a – Variance Request – Westown Park Lots 3 and 15 – Grayslake Westowne, LLC – 1530 22<sup>nd</sup> Street – 0.95 acres – Approval of a 20 foot variance from the 100 foot front yard building setback – VAR-2012-006**

Chairperson Drake opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on November 16, 2012, in the Des Moines Register.

Chairperson Drake then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board member Blaser, seconded by Board member Christiansen, the Board of Adjustment accepts and makes a part of the record all testimony and all other documents received at this public hearing.

Vote: Blaser, Christiansen, Drake, Taylor.....Yes  
Stewart.....Absent  
Motion carried.

Josh Trygstad, Civil Design Advantage, 3405 SE Crossroads, Grimes, Iowa, representing Grayslake Westowne, noted the location of the project as the former Taco Bell lot on the west side of 22<sup>nd</sup> Street at Kingman Drive. The applicant is leasing the lot to a tenant for a future McDonald's restaurant. A variance of the front yard setback is requested due to a 10 foot irrevocable offer for right-of-way dedication on 22<sup>nd</sup> Street which encroaches into the current front yard setback and that a similar variance has been granted for the newly

constructed Taco Bell restaurant which moved to the north of the drive aisle of the shopping center from the current project area.

Chairperson Drake asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Kara Tragesser, Planner, indicated that there were no changes to the staff report and that staff recommends approval of the variance request by the applicant.

Board member Blaser expressed concern with variance findings #2 and #3 in the staff report where it refers to exceptional circumstances or characteristics applicable to the subject property which do not apply generally to comparable properties in the same vicinity and zones and that it seems that the comparable properties in the same vicinity and zone have already received variances. He inquired if this property was considered exceptional in that regard or if the City is considering it exceptional because of the additional dedicated right-of-way that has been required that wasn't there at the time and that it moves them into a class that complies with that requirement even though it doesn't seem different than the three (3) adjacent properties.

Ms. Tragesser responded that if the City has impacted the site to a degree that they would be non-compliant with the Code or are unable to meet the Code because of what the City has done, it becomes exceptional. The variance for the newly constructed Taco Bell was granted with similar findings.

Christopher Shires, Development Planning and Inspection Manager, added that in this case, the entire Westown Centre development, per the City's opinion, has the same special consideration because of the right-of-way dedications over the years and that the original buildings were designed according to previous standards or standards that were measured from a previous right-of-way.

Discussion ensued regarding these finding; no changes made to the findings as written in the staff report.

Moved by Board member Christiansen, seconded by Board member Taylor, the Board of Adjustment adopts a resolution for approval of the Variance Request to vary the front yard setback from 100 feet to 80 feet, a variance of 20 feet for Westown Park Lots 3 and 15, subject to meeting all City Code requirements and the following:

1. Gaining approval of a site plan prior to any construction.

Vote: Christiansen, Taylor, Blaser, Drake.....Yes  
Stewart.....Absent

Motion carried.

#### **Item 4 – New Business**

There were no New Business items presented.

#### **Item 5a – Staff Reports**

The Recording Secretary noted that the Board meeting regularly scheduled for December 26, 2012 conflicts with a City Council meeting scheduled for that evening. At this time, there are no projects scheduled for that date, so staff will recommend that the meeting be canceled.

**Item 6 - Adjournment**

Chairperson Drake asked for a motion to adjourn the meeting.

Motioned by Board member Blaser, seconded by Board member Christiansen, the Board of Adjustment meeting adjourns.

Vote: Blaser, Christiansen, Drake, Taylor.....Yes  
Stewart.....Absent  
Motion carried.

The meeting adjourned at 5:43 p.m.

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Jennifer Drake, Chairperson  
Board of Adjustment

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Michelle Riesenberg, Recording Secretary